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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 JUNE THEPSOMBANDITH,
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Petitioner,

v.

V.M. ALMAGER, Warden

Respondent.

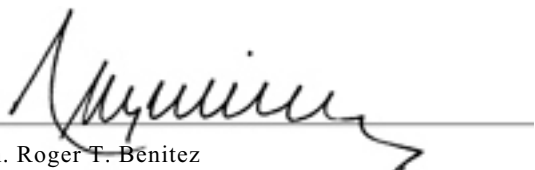
Civil No. 07-2248 BEN (RBB)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE AND WITH
LEAVE TO AMEND**

Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, but has failed to pay the \$5.00 filing fee and has failed to move to proceed in forma pauperis. Because this Court cannot proceed until Petitioner has either paid the \$5.00 filing fee or qualified to proceed in forma pauperis, the Court **DISMISSES** the case without prejudice. *See* Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed with this case, he must submit, **no later than February 4, 2008**, a copy of this Order with the \$5.00 fee or with adequate proof of his inability to pay the fee. **The Clerk of Court shall send a blank Southern District of California In Forma Pauperis Application to Petitioner along with a copy of this Order.**

IT IS SO ORDERED.

DATED: December 3, 2007


Hon. Roger T. Benitez
United States District Judge